

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #9	CCRB Case #: 201407155	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/11/2014 12:11 AM	Location of Incident: [REDACTED]	Precinct: 44	18 Mo. SOL 1/11/2016	EO SOL 1/11/2016	
Date/Time CV Reported Fri, 07/11/2014 4:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/16/2014 4:17 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Amadeo Oktrova	26126	949413	PBBX SU
2. SSA Robert Barnett	00157	918730	PBBX SU
3. POM Francis Flynn	11320	950424	044 PCT
4. An officer			
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Paul Urquiaga	2771	935890	PBBX SU
2. POM William Cullen	11928	950257	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Amadeo Oktrova	Discourtesy: PO Amadeo Oktrova spoke discourteously to § 87(2)(b) at the § 87(2)(b) in the Bronx.	[REDACTED]
B.POM Amadeo Oktrova	Force: PO Amadeo Oktrova pointed his gun at § 87(2)(b) at the § 87(2)(b) in the Bronx.	[REDACTED]
C.POM Amadeo Oktrova	Force: PO Amadeo Oktrova used physical force against § 87(2)(b) at the § 87(2)(b) in the Bronx.	[REDACTED]
D. Officers	Abuse: Officers searched § 87(2)(b) at the § 87(2)(b) in the Bronx.	[REDACTED]
E.SSA Robert Barnett	Discourtesy: Sgt. Robert Barnett spoke discourteously to § 87(2)(b) at the § 87(2)(b) in the Bronx.	[REDACTED]
F. An officer	Force: An officer used physical force against § 87(2)(b) at the § 87(2)(b)	[REDACTED]
G.POM Francis Flynn	Discourtesy: PO Francis Flynn spoke to discourteously § 87(2)(b) at the § 87(2)(b) in the Bronx and at the 44th Precinct stationhouse.	[REDACTED]
H.POM Francis Flynn	Force: PO Francis Flynn used physical force against § 87(2)(b) at the § 87(2)(b) in the Bronx.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
I.POM Francis Flynn	Force: PO Francis Flynn tightly handcuffed § 87(2)(b) at the § 87(2)(b) in the Bronx.	
J.POM Francis Flynn	Off. Language: PO Francis Flynn made remarks to § 87(2)(b) based upon his ethnicity at the 44th Precinct stationhouse.	

### Case Summary

On July 11, 2014, at approximately 12:11 a.m., § 87(2)(b) was the passenger inside a taxi cab driven by § 87(2)(b). They alleged the following: Shortly after § 87(2)(b) entered the cab, an unmarked police vehicle flashed its lights and briefly activated its sirens at which point § 87(2)(b) continued driving. § 87(2)(b) made it to the § 87(2)(b) in the Bronx before stopping. § 87(2)(b) opened the passenger side door where he was seated, at which point PO Amadeo Oktrova from Patrol Borough Bronx Specialized Unit approached the back passenger's side door where § 87(2)(b) was seated with his gun pointed at § 87(2)(b) and said, "Get the fuck out of the car" (**Allegations A and B**). At the same time, PO Francis Flynn and PO William Cullen from the 44<sup>th</sup> Precinct approached the driver side of the taxi where § 87(2)(b) was seated. As § 87(2)(b) attempted to exit the vehicle, PO Oktrova grabbed § 87(2)(b) by the front of his shirt and pulled him forward and down on to the ground, which caused § 87(2)(b)'s face and chest to hit the ground. Once § 87(2)(b)'s face made contact with the ground one of his teeth fell out (**Allegation C**). § 87(2)(b) was handcuffed and stood up, and unidentified officers reached inside his pockets, removing his wallet and cell phone (**Allegation D**). Sgt. Robert Barnett from Patrol Borough Bronx Specialized Unit, who had arrived with PO Oktrova and assisted in bringing § 87(2)(b) to the police vehicle, looked at the injury inside of § 87(2)(b)'s mouth and said, "His mouth looks like shit anyway" (**Allegation E**).

PO Flynn grabbed § 87(2)(b) out of the cab and then put him so he was flat on the ground. PO Flynn or PO Cullen then punched § 87(2)(b) on the right side of his face (**Allegation F**). PO Flynn then said, "Motherfucker shut up" (**Allegation G**), then one of the officers punched him once more. While walking § 87(2)(b) to the police vehicle PO Flynn stomped on § 87(2)(b)'s foot (**Allegation H**). PO Flynn placed § 87(2)(b) in the back of his police vehicle and squeezed down on § 87(2)(b)'s handcuffs to tighten them (**Allegation I**).

§ 87(2)(b) and § 87(2)(b) were both transported to the 44<sup>th</sup> Precinct stationhouse. Once § 87(2)(b) arrived at the stationhouse, PO Flynn removed § 87(2)(b) from the police vehicle and said, "I am going to see if this motherfucker dropped anything (**within Allegation G**). After entering the stationhouse PO Flynn asked § 87(2)(b) where he was from. § 87(2)(b) responded that he was from West Africa, and PO Flynn told § 87(2)(b) that he would send him "back to Africa motherfucker" (**Allegation J**).

§ 87(2)(b) was arrested for reckless endangerment. § 87(2)(b) was arrested for two counts of criminal possession of marijuana, resisting arrest and obstruction of governmental administration.

This case was originally assigned to Inv. Stephen Abrams-Downey and was re-assigned to Inv. Daniel Cooper on January 7, 2014 upon the creation of the Case Closing Unit.

### Mediation, Civil, and Criminal Histories

Due to § 87(2)(b) and § 87(2)(b)'s arrests, this complaint was unsuitable for mediation. On October 8, 2014, § 87(2)(b) filed a Notice of Claim with the New York City Comptroller's Office alleging false arrest, illegal search and seizure, and assault and battery and seeking 1.5 million dollars as redress (encl. 14m - § 87(2)(b)).

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) have no prior criminal convictions.

### **Civilian and Officer Histories**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3a).
- § 87(2)(b) [REDACTED]
- PO Amadeo Oktrova has been a member of service for 4 years and has no substantiated allegations against him (encl. 2a).
- Sgt. Robert Barnett has been a member of service for 18 years and there is one substantiated allegation against him. In case number 201015749, the Board recommended charges for an allegation of a search and entry and the NYPD issued instructions (encl. 2b).
- PO Francis Flynn has been a member of service for 3 years and has no substantiated allegations against him (encl. 2c).

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

The physical descriptions that § 87(2)(b) provided for PO Oktrova and Sgt. Barnett matched the pedigree information of the officers who he recalled interacting with. PO Oktrova acknowledged that he was the officer that approached the police vehicle with his gun drawn and pulled § 87(2)(b) out of the vehicle and Sgt. Barnett acknowledged assisting PO Oktrova with § 87(2)(b)'s arrest as well as placing him inside a police vehicle. Therefore, **Allegations A-C** have been pled against PO Oktrova and **Allegation E** has been pled against Sgt. Barnett. § 87(2)(b) could not identify which officer or officers searched him. Therefore **Allegation D** is pled against "officers."

§ 87(2)(b) provided PO Flynn's name and identified him as the officer who used profanity and offensive language, tightened his handcuffs and stomped on his foot. PO Flynn and PO Cullen both acknowledged that they handcuffed § 87(2)(b). However, since § 87(2)(b) could not identify which officer punched him, **Allegation F** has been pled against "an officer" and **Allegations G-J** have been pled against PO Flynn.

#### **Allegations not pleaded**

Det. Paul Urquiaga stopped § 87(2)(b)'s cab in order to investigate the nature of § 87(2)(b)'s cracked windshield. Therefore a vehicle stop is not being pled.

**Allegation A-Discourtesy -PO Amadeo Oktrova spoke discourteously to § 87(2)(b) at the § 87(2)(b) in the Bronx.**

**Allegation E-Discourtesy -Sgt. Robert Barnett spoke discourteously to § 87(2)(b) at the § 87(2)(b) in the Bronx.**

§ 87(2)(b) stated that after PO Oktrova opened the passenger's side door he said, "Get the fuck out of the car". After § 87(2)(b) was handcuffed Sgt. Barnett inspected his mouth and said "his mouth looks like shit anyway." (encl. 6a-6d)

PO Oktrova and Sgt. Barnett denied that either made the aforementioned discourteous statements. Sgt. Barnett did not recall if PO Oktrova ever said, "Get the fuck out of the car." The other

officers interviewed denied hearing an officer say either “Get the fuck out of the car” or “his mouth looks like shit anyway.” (encl. 8a-12f)

§ 87(2)(b), § 87(2)(g)

**Allegation B- Force Gun Pointed- PO Amadeo Oktrova pointed his gun at § 87(2)(b) at the § 87(2)(b) in the Bronx.**

It is not in dispute that PO Oktrova had his gun pointed at § 87(2)(b) as he approached the back passenger side of the vehicle where § 87(2)(b) was seated. § 87(2)(g) § 87(2)(b) stated that while he saw an unmarked car flash its lights, he was unaware the occupants of the unmarked vehicle were police officers and he was being signaled to pull over. § 87(2)(b) stated that it was not until he noticed a marked police car behind him with its turret lights and sirens activated that he pulled over. § 87(2)(b) and the officers interviewed stated that after the unmarked vehicle flashed its lights § 87(2)(b) travelled at a high rate of speed, and ran red lights in an attempt to evade the police. § 87(2)(b) also stated that while § 87(2)(b) was fleeing he told § 87(2)(b) he should not flee from the police. Thus, the investigation discredits that § 87(2)(b) was unaware he was being followed by police officers and credits the other statements that detail the manner in which § 87(2)(b) was driving (encl. 6a-6d, 8a-12f).

The police department “permits an officer broad discretion to display his weapon whenever he feels that his life or the life of another is endangered,” so long as his or her actions are reasonable when considering the totality of the surrounding circumstances. Police Department v. Gliner, OATH Index No. 955/00 (encl. 1a-1s)

§ 87(2)(g)

**Allegation C-Force-PO Amadeo Oktrova used physical force against § 87(2)(b) at the § 87(2)(b) in the Bronx.**

§ 87(2)(b) stated that after § 87(2)(b) stopped the cab, he put one foot out of the cab while his bag was around his forearm but he did not make any movements with his hands. At this time, PO Oktrova grabbed § 87(2)(b) and pulled him out of the cab onto the ground. In the process of being pulled to the ground § 87(2)(b)'s face hit the ground which caused his a tooth to be knocked out. § 87(2)(b) denied that he resisted arrest in any manner (encl. 6a -6d).

PO Oktrova and Sgt. Barnett both stated that upon opening the back passenger side door where § 87(2)(b) was seated they saw that he was holding onto a black plastic bag and speaking loudly. PO Oktrova then issued several verbal commands for § 87(2)(b) to show his hands but § 87(2)(b) did not comply and continued to yell. According to Sgt. Barnett, § 87(2)(b) yelled,

“Get your fucking hands off me. Don’t touch me,” even though the officers had yet to make any physical contact with § 87(2)(b)

PO Oktrova stated he decided to grab § 87(2)(b) by the clothing around his shoulders, pull him out of the cab and onto the ground because he feared for his safety and he believed that prior to the cab stopping, the officers were in pursuit of a carjacking or an armed robbery. Since § 87(2)(b) did not comply with PO Oktrova’s commands, continued to speak loudly and did not let go of the bag he was holding onto, PO Oktrova believed that § 87(2)(b) had possibly been a perpetrator. Once § 87(2)(b) was on the ground, PO Oktrova with the help of Sgt. Barnett, placed § 87(2)(b) into handcuffs. PO Oktrova denied seeing any injuries on § 87(2)(b) (encl. 9a- 9h) Sgt. Barnett and the other officers interviewed denied seeing any injuries on § 87(2)(b) (encl. 8a -8f, 10a-12f).

PO Flynn stated that while he was dealing with § 87(2)(b) Sgt. Barnett and PO Oktrova had approached § 87(2)(b) who appeared to be resisting arrest by pulling his arms away from the officers and cursing. § 87(2)(b) said, “This is bullshit. I want Al Sharpton” (encl. 10a -10h). PO Cullen also dealt with § 87(2)(b) and did not know if the other officers had any struggle with § 87(2)(b) (encl. 12a-12f).

§ 87(2)(b)’s medical records show that § 87(2)(b) stated that the nature of his injury occurred from a punch to the face. § 87(2)(b)

§ 87(2)(b)’s Notice of Claim states that during his interaction with PO Oktrova and Sgt. Barnett he was thrown to the ground, and also that § 87(2)(b) lost one tooth and another tooth was loosened (encl. 14m- 14n). § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-h(3)

NYPD Patrol Guide Procedure 203-11 requires an officer to use the minimum force necessary to take an individual into custody (encl.1t-1u).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation D-Abuse of Authority- Officers searched § 87(2)(b) at the § 87(2)(b) in the Bronx.**

§ 87(2)(b) stated that after being placed into handcuffs, officers reached inside of his pockets and removed his wallet and cell phone. § 87(2)(b) denied that he was in possession of any drugs at the time of the incident (encl. 6a-6d).

PO Oktrova and Sgt. Barnett both stated that during § 87(2)(b)'s removal from the vehicle, marijuana was found in plain view and that it was not until marijuana was found that § 87(2)(b) was considered under arrest. PO Oktrova stated that once § 87(2)(b) was in handcuffs, he noticed that a small ziplock bag containing what he thought to be marijuana had fallen from § 87(2)(b)'s body. Sgt. Barnett stated that the marijuana had fallen from § 87(2)(b)'s waistband and landed next to his body. Neither officer acknowledged searching § 87(2)(b) before placing him in the police vehicle (encl. 8a-8f , 9a-9h)

Det. Urquiaga stated that he was not on the scene at the time of § 87(2)(b)'s arrest but processed his arrest paperwork. Det. Urquiaga stated that Sgt. Barnett told him that § 87(2)(b) had thrown marijuana on the ground and that later when § 87(2)(b) was removed from the police vehicle additional marijuana was found in the police vehicle (encl. 11a- 11p).

A property voucher filled out for § 87(2)(b) listed a bag of marijuana and also a marijuana cigarette as arrest evidence (encl. 13a).

§ 87(2)(b), § 87(2)(g)

**Allegation F – An officer used physical force against § 87(2)(b) at the § 87(2)(b)**

**Allegation G –Discourtesy - PO Francis Flynn spoke to discourteously § 87(2)(b) at the § 87(2)(b) in the Bronx and at the 44th Precinct stationhouse.**

**Allegation H - Force -PO Francis Flynn used physical force against § 87(2)(b) at the § 87(2)(b) in the Bronx.**

**Allegation I - Force -PO Francis Flynn tightly handcuffed § 87(2)(b) at the § 87(2)(b) in the Bronx.**

**Allegation J - Offensive Language- PO Francis Flynn made remarks to § 87(2)(b) based upon ethnicity.**

§ 87(2)(b) stated that PO Flynn and PO Cullen pulled him out of the car and onto the ground. Once on the ground § 87(2)(b) asked the officers what he had done. One of the officers then punched § 87(2)(b) on the right side of his face and PO Flynn said, “Motherfucker shut up.” Then one of the officers punched § 87(2)(b) again. § 87(2)(b) was placed in handcuffs and walked to PO Flynn and PO Cullen’s police vehicle. PO Flynn then stomped on § 87(2)(b)’s foot. § 87(2)(b) was placed in the back of the police vehicle and then PO Flynn grabbed § 87(2)(b)’s handcuffs and retightened them. PO Flynn and PO Cullen then transported § 87(2)(b) to the 44<sup>th</sup> Precinct Stationhouse. When § 87(2)(b) was removed from the police vehicle PO Flynn said “I’m going to see if this motherfucker dropped anything.” PO Flynn and PO Cullen then walked § 87(2)(b) into the stationhouse and while walking PO Flynn asked § 87(2)(b) where he was from. When § 87(2)(b) responded that he was from West Africa, PO Flynn allegedly said that he would send him “back to Africa motherfucker.” (encl. 7a-7d)

PO Flynn stated that when § 87(2)(b) stopped his cab, PO Flynn exited his vehicle with his gun drawn, approached the driver’s side where § 87(2)(b) was seated, opened the driver’s side door and said to § 87(2)(b) “Police. Don’t move. Show me your hands” and § 87(2)(b) complied. PO Flynn then holstered his gun, pulled § 87(2)(b) by his shoulders, out of the cab and placed § 87(2)(b) into handcuffs while § 87(2)(b) was still standing. PO Flynn denied that § 87(2)(b) was placed on the ground. PO Flynn denied that he punched § 87(2)(b) Daillo or stepped on § 87(2)(b)’s foot or that another officer did so. PO Flynn denied that he said to § 87(2)(b) “Motherfucker shut up” and did not hear an officer say that. PO Flynn acknowledged that once at the stationhouse he removed § 87(2)(b) from the police vehicle but denied saying, “I am going to see if this motherfucker dropped anything.” PO Flynn stated the only conversation he had with § 87(2)(b) was when he asked him why he fled from the police. PO Flynn denied that he had a conversation with § 87(2)(b) regarding where he was from and that he said to § 87(2)(b) that he would send him “back to Africa motherfucker” (encl. 10a-10h).

PO Cullen’s statement was generally consistent with that of PO Flynn, although he stated that § 87(2)(b) was placed on the ground after being removed from the vehicle. He denied that any officer punched § 87(2)(b) or stepped on his foot, and denied any of the alleged discourteous or offensive comments were made. PO Cullen stated that he handcuffed § 87(2)(b) and only made them as tight as they needed to be to secure § 87(2)(b)’s hands. PO Flynn never retightened or squeezed § 87(2)(b)’s handcuffs to make them tighter (encl. 12a-12f)

Sgt. Barnett stated that he saw § 87(2)(b) was in handcuffs but did not see any other interaction between § 87(2)(b) and the officers from the 44<sup>th</sup> Precinct (encl. 8a-8f). PO Oktrova stated while handcuffing § 87(2)(b) he noticed § 87(2)(b) was being cuffed and at some point while being cuffed he was on the ground. However, PO Oktrova denied seeing an officer punch § 87(2)(b) or stomp on his foot (encl. 9a-9h). Det. Urquiaga stated when he arrived at the incident location both § 87(2)(b) and § 87(2)(b) were handcuffed and placed in separate police



vehicles (encl. 11a- 11p). The officers interviewed denied hearing the alleged discourtesies or offensive language.

§ 87(2)(b), § 87(2)(g)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted].

Team: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date